

Choice of Procedure Involved in Enforcing New Prohibition Law

W.S. Daily - 5/3/29
**Mrs. Willebrandt Says Statute Is Designed to Cover
Liquor Sales on Commercial Basis.**

The intention of Congress that the penalties of the Jones law were designed to punish violations of the national prohibition act involving commercialism, is plainly disclosed in the language of the act, Mrs. Mabel Walker Willebrandt, Assistant Attorney General in charge of prohibition enforcement, stated in a letter made public May 2. Mrs. Willebrandt's letter, addressed to Mrs. Lenna Lowe Yost, was written as further explanation of Mrs. Willebrandt's recent instructions to United States attorneys to use "wise discretion" in bringing indictments under the Jones law. The full text of the letter follows:

Precedent Followed.

The letter on the application of the new Jones amendment followed the precedent of the Department long established in the administration of the white slave traffic act. Its purpose is to point out to United States attorneys the importance of a careful study of the evidence prior to instituting action and the exercise of a wise discretion in fitting that evidence into the particular section of the law, violation of which it will best prove in court. For, although the average man and woman may be unaware of the fact, every lawyer knows that the prosecutor must weigh evidence and choose (make an election of remedies in the legal term that applies) under what section of the law he will plead the case.

Particularly must every United States attorney do this with prohibition violations. Almost every violation reported by prohibition agents is a legal infringement on no less than five sections of law—to wit: (a) Some of the internal revenue statutes existing prior to prohibition; (b) the possession; (c) sale; (f) or manufacturing sections of the national prohibition act; (g) the tariff act; (h) the customs act, and frequently (e) the prohibition law of the county or State. To proceed under possession or some of the sections, a misdemeanor complaint may be filed immediately. To choose other sections, the case must be presented to the grand jury.

Commercialism Covered.

United States attorneys' offices have in the past used blanks charging sale just as a misdemeanor. They can no longer do that. If the evidence is inconsequential in character so that proof of more than illegal possession is doubtful, it is manifestly unfair to a defendant to attempt to prove a felony. Enforcement by harassment is never justified. Moreover, Congress has revealed the intent of the new amendment to reach commercial cases and when commercialism can be shown by the evidence it is plain Congress intended the prosecutor to press for the higher penalties of the Jones law, with the power of deportation of undesirable aliens engaged in such violations to follow.

Evaluating evidence before trial has been always a prosecutor's duty; but it becomes of greater importance since the Jones amendment to the Volstead Act shows that Congress intends those offenses which violate the Constitution itself to be felonies and leaves other Volstead violations as misdemeanors. A United States attorney must proceed under the law according to the intent of Congress, and to do that he must exercise a wise discretion in choosing his first steps of procedure.

Judge Padlocks 25 Places in Half-Hour

Federal Judge Guy Fake in Newark yesterday signed orders to padlock twenty-five New Jersey speak-easies in twenty-one minutes. The places are in and about Newark. In the four days in which he has been sitting Judge Fake has closed a total of ninety-six New Jersey places, where, it is alleged, liquor was being sold.

W.S. Daily - 5/11/29